

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

DAVID ALLEN COLLUMS

PLAINTIFF

v.

CIVIL ACTION NO. 1:15-cv-138-HSO-JCG

RONALD WOODALL, ET AL.

DEFENDANTS

**ORDER ADOPTING REPORT AND RECOMMENDATION [31],
GRANTING DEFENDANT BURCK'S MOTION [22] FOR SUMMARY
JUDGMENT, GRANTING DEFENDANT WOODALL'S AFFIRMATIVE
DEFENSE [21] OF FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES,
AND DISMISSING COMPLAINT [1] WITHOUT PREJUDICE**

This matter is before the Court on the Report and Recommendation [31] of United States Magistrate Judge John C. Gargiulo, entered on June 27, 2016, recommending that the Court grant Defendant James Burck's Motion [22] for Summary Judgment, grant Defendant Ronald Woodall's Affirmative Defenses and Answer [21] (which the Court will construe at this juncture as a motion for summary judgment), and dismiss Plaintiff's Complaint [1] without prejudice for failure to exhaust administrative remedies. Plaintiff has not filed any objection to the Report and Recommendation, and the time for doing so has passed.

Where a party fails to file specific objections to a magistrate's proposed findings of fact and recommendation, the district court reviews the proposed findings of fact and recommendation for findings and conclusions that are clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1); *see United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). The Court finds that the Magistrate Judge properly recommended that Defendant Burck's Motion [22] for Summary Judgment and Defendant Woodall's Affirmative Defense [21] of failure to exhaust

administrative remedies be granted and Plaintiff's Complaint [1] be dismissed. After referral of hearing by this Court, no objections having been filed as to the Report and Recommendation, and the Court, having fully reviewed the same as well as the record and relevant law in this matter, and being fully advised in the premises, finds that the Report and Recommendation is neither clearly erroneous nor contrary to law and should be adopted in its entirety as the opinion of this Court.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Report and Recommendation [31] of Magistrate Judge John C. Gargiulo, entered on June 27, 2016, is adopted in its entirety as the opinion of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Defendant James Burck's Motion [22] for Summary Judgment and Defendant Ronald Woodall's Affirmative Defenses and Answer [21] of failure to exhaust administrative remedies are **GRANTED**.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Plaintiff's Complaint [1] is **DISMISSED WITHOUT PREJUDICE** for failure to exhaust administrative remedies. A separate final judgment will be entered pursuant to Federal Rule of Civil Procedure 58.

SO ORDERED AND ADJUDGED, this the 19th day of July, 2016.

s/ Halil Suleyman Ozerden
HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE